



action against him was racially motivated (Docket Entry No. 1, ¶ IV)

To state a claim under § 1983, the plaintiff must allege and show: 1) that he was deprived of a right secured by the Constitution or laws of the United States; and 2) that the deprivation was caused by a person acting under color of state law. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981)(overruled in part by *Daniels v. Williams*, 474 U.S. 327, 330 (1986)); *Flagg Bros v. Brooks*, 436 U.S. 149, 155-56 (1978); *Black v. Barberton Citizens Hosp.*, 134 F.3d 1265, 1267 (6<sup>th</sup> Cir. 1998). Both parts of this two-part test must be satisfied to support a claim under § 1983. See *Christy v. Randlett*, 932 F.2d 502, 504 (6<sup>th</sup> Cir. 1991).

Under the Prison Litigation Reform Act (PLRA), the courts are required to dismiss a prisoner's complaint if it is determined to be frivolous, malicious, or if it fails to state a claim on which relief may be granted. 28 U.S.C. § 1915A(b). A complaint is frivolous and warrants dismissal when the claims "lack[] an arguable basis in law or fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Claims lack an arguable basis in law or fact if they contain factual allegations that are fantastic or delusional, or if they are based on legal theories that are indisputably meritless. *Id.* at 327-28; *Brown v. Bargerly*, 207 F.3d 863, 866 (6<sup>th</sup> Cir. 2000); see also *Lawler v. Marshall*, 898 F.2d 1196, 1198-99 (6<sup>th</sup> Cir. 1990). Although the courts are required to construe *pro se* complaints liberally, see *Boag v. MacDougall*, 454 U.S. 364, 365 (1982), under the PLRA, the "courts have no discretion in permitting a plaintiff to amend a complaint to avoid a *sua sponte* dismissal," *McGore v. Wigglesworth*, 114 F.3d 601, 612 (6<sup>th</sup> Cir. 1997).

Although the plaintiff names six defendants to this action, he does not mention any of them in the statement of his claim. Because the plaintiff does not allege and show that the defendants violated his rights under the Constitution and/or laws of the United States, he fails to satisfy the first

part of the two-part test under *Parratt*, *supra*

Beyond having not made a *prima facie* showing under *Parratt*, the plaintiff's first specific claim is that he was falsely accused. However, false accusations of misconduct filed against an inmate do not constitute a deprivation of constitutional rights where, as here, those charges were properly adjudicated. See *Jackson v. Madero*, 158 Fed Appx. 656, 662 (6<sup>th</sup> Cir. 2005); *Cromer v. Dominquez*, 103 Fed Appx 570, 573 (6<sup>th</sup> Cir. 2004); *Munson v. Burson*, 2000 WL 377038 \* 3 (6<sup>th</sup> Cir. 2000)(all three cases citing to *Cale v. Johnson*, 861 F.2d 943, 953 (6<sup>th</sup> Cir. 1998)(overruled in part by *Thaddeus-X v. Blatter*, 175 F.3d 378 (6<sup>th</sup> Cir. 1999) and *Freeman v. Rideout*, 808 F.2d 949, 951 (2<sup>nd</sup> Cir. 1986), *cert. denied*, 485 U.S. 982 (1988)). The documents attached to the complaint show that the plaintiff received a disciplinary hearing at which he was found guilty, that Warden Holland denied his appeal, and that Commissioner Little affirmed the proceedings below. (Docket Entry No. 1, Attach. Disciplinary Report Appeal) The plaintiff does not allege, nor can it be liberally construed from the complaint and attached documents, that his conviction was subsequently overturned.

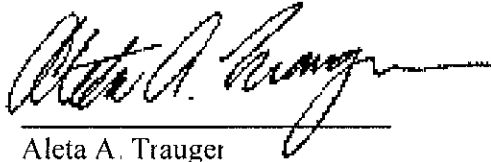
Finally, the plaintiff asserts that the disciplinary action against him was racially motivated. However, the plaintiff fails to provide any factual allegations in support of this claim.

Although *pro se* complaints are held to less stringent standards than complaints prepared by an attorney, see *Boag*, 454 U.S. at 365, the courts are not willing to abrogate basic pleading essentials in *pro se* suits, see *Wells v. Brown*, 891 F.2d 591, 594 (6<sup>th</sup> Cir. 1990). More than bare assertions of legal conclusions or personal opinions are required to satisfy federal notice pleading requirements. *Id.* A complaint must contain either direct or inferential allegations respecting all the material elements to sustain a recovery under some viable legal theory. See *Scheid v. Fanny Farmer*

*Candy Shops, Inc.*, 859 F.2d 434, 437 (6<sup>th</sup> Cir. 1988). The less stringent standard for *pro se* plaintiffs does not compel the courts to conjure up unpled facts to support conclusory allegations. *Wells*, 891 F.2d at 594. Because the plaintiff fails to support his racial discrimination claim with any factual allegations, it is conclusory and, as such, subject to *sua sponte* dismissal. *Smith v. Rose*, 760 F.2d 102, 106 (6<sup>th</sup> Cir. 1985); *Place v. Shepherd*, 446 F.2d 1239, 1244 (6<sup>th</sup> Cir. 1971).

For the reasons explained above, the complaint lacks an arguable basis in law or fact. Accordingly, the complaint will be dismissed as frivolous.

An appropriate Order will be entered.



Aleta A. Trauger  
United States District Judge